

Republic of Iraq
Federal Supreme Court
Ref 304/ federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 31/1/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayoob Abbas Salih, Abdul-Rahman Suleiman Ali, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

Plaintiffs: Husain Mohammed Ali Jaafar } Their agent the barrister
Jassim Mohammed Ali Jaafar } Anfal Abdul-Razak Jawad

Defendant: The Prime Minister/being in this capacity– His agent the legal advisor Qasim Suhaib Shakur.

The Claim:

The plaintiffs, through the mediation of their agent, claimed that due to the issuance of the decision of the Court of First Instance of Karrada No. (3245/B/2022) containing the evacuation of the property of her clients at number (12/316 - Btaween) and after proceeding with the procedures for its implementation in the Directorate of Execution of Karrada according to the executive file No. (2861/2023) and reaching the stage of forced execution, they were surprised that the defendant took action being in this capacity according to the letter of his personal secretary's office No. (233372/3087) on 14/11/2023 entitled to the Directorate of Implementation of Karrada, according to which he ordered the force holding the land to wait in executing the eviction ruling, which caused direct damage for the financial benefit of her clients, in addition, it is an

Zainab

Republic of Iraq
Federal Supreme Court
Ref 304/ federal /2023



Kurdish text

illegal procedure, and represents a direct interference with the will of the judiciary, and a violation of its independence, which is confirmed by the Constitution in Article (19/1st) thereof, which stipulates that (the judiciary is independent and has no authority other than the law) and also contrary to the principle of separation of powers, so the plaintiffs' agent requested from this court to rule that the defendant's action/ in addition to his aforementioned position is invalid, and obliges him to apply the law and not to interfere with the will of the judiciary at all, nor with the execution procedures related to the aforementioned judgment decision, After registering the case with this court issue (304/Federal/2023) and collect the legal fee for it and notify the defendant of its petition and documents in accordance with article (21/1st and 2nd) of the Rules of Procedure of the Federal Supreme Court No.(1) of 2022, His agent responded with the reply regulation dated 16/1/2024, which included that the request of the plaintiffs' agent is outside the jurisdiction of the court specified in Article (93) of the Constitution, article 4 of the Federal Supreme Court Law No. 30 of 2005, as amended, There is no truth to her claim that his client has issued a letter No. (233372) on 14/11/2013 entitled to the Directorate of Implementation of Karrada ordering the force holding the land to wait in the implementation of the ruling of evacuation, and in fact that the aforementioned letter is addressed to the Baghdad Operations Command, and not to the Directorate of the implementation of Karrada and included a humanitarian case presented on Al-Sharqiya Channel for a Christian family in the Karrada area that was subjected to a case of extortion and displacement from one of the gangs for the purpose of seizure on the house, following that appeal, the meeting was held by the Advisor to the Prime Minister for Diversity and Pluralism, and it turned out that she was an elderly woman, and she indicated that the house

Zainab

Republic of Iraq
Federal Supreme Court
Ref 304/ federal /2023



Kurdish text

belongs to the Chaldean Church and is rented to the house under a contract. Where the recommendation was to the Baghdad Operations Command to take the necessary action on the subject of this Christian woman, and was never involved in judicial proceedings, and there is no order issued by his client directed to the Directorate of Execution of Karrada orders the force holding the land to wait in the implementation of the eviction ruling, and thus this lawsuit becomes irrelevant and must be answered in this regard, and that the decision of the executor of justice is subject to objection before him or cassation before the Court of Appeal of the region within whose jurisdiction the Enforcement Directorate falls and is considered by its discriminatory body based on the Execution Law No. (45) of 1980, as amended, Therefore, the defendant's attorney requested that the lawsuit be dismissed and that the plaintiffs be charged fees, expenses and agent's fees. After completing the procedures required by the rules of procedure of the court A date for the pleading was set in accordance with Article (21/3rd) thereof, and the parties shall be informed of it, and in which the court was formed and the representative of each party attended and began to conduct the public presence pleading, the plaintiffs' agent repeated what was stated in the lawsuit petition and requested a ruling accordingly, and added highlighting a request dated 31/1/2024 requesting the creation of an accident lawsuit joining the lawsuit to link the request within the lawsuit papers, and since the lawsuit is ready for resolution and for lack of legal basis the court decided to reject it, the defendant's agent answered and requested the dismissal of the lawsuit for the reasons stated in his list attached to the lawsuit papers, and each party repeated his previous statements and requests and where there is nothing left to say the end of the argument has been made clear and the court issued the following ruling:

Zainab

Republic of Iraq
Federal Supreme Court
Ref 304/ federal /2023



Kurdish text

The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiffs filed a lawsuit before this court against the defendant. Prime Minister / being in this capacity to demand a ruling on the invalidity of the defendant's action/ being in this capacity according to the letter of his personal secretary's office No. (233372/3087) on 14/11/2023 entitled to the Directorate of Implementation of Karrada and his order issued to the holding force of the land on which the property No. (12/316 in Bataouine) is located, which includes waiting to implement the eviction judgment issued by the Karrada Court of First Instance and executed by the executive file (2861/2023) and obliging him to apply the law and not to interfere with the will of the judiciary permanently, and not to interfere with the implementation procedures related to the judgment decision issued by the Court House in Karrada No. (3245/B/2022), on the grounds that this is contrary to the provisions of the Constitution of the Republic of Iraq for the year 2005 in Article (19/I) thereof, Which stipulated that (the judiciary is independent and has no authority over it other than the law) it is also contrary to the principle of separation of powers contained in Article 47 thereof, as detailed in the petition, and charging him expenses, fees and agent's fees, the Federal Supreme Court finds that the plaintiffs' claim must be dismissed for lack of jurisdiction the powers and competences of this Court are exclusively stipulated in Articles 52 and 93 of the Constitution of the Republic of Iraq, of 2005, and Article (4) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021 and some other special laws, None of these powers and competencies gives the court jurisdiction to decide on the plaintiffs' requests contained in the lawsuit petition, especially since the letter issued by the Office of the Prime Minister / Personal Secretary of the Commander-in-Chief of the

Zainab

Republic of Iraq
Federal Supreme Court
Ref 304/ federal /2023



Kurdish text

Armed Forces No. (233372) on 14/11/2023 referred to in the lawsuit petition, Proved after reviewing its content and content it is addressed to the Baghdad Operations Command under the title of the displacement of a Christian family from their home belonging to the Chaldean Church, it included that (on 11/10/2023, Al-Sharqiya Channel presented a humanitarian case of a Christian family in the Karrada area that was subjected to a case of extortion and displacement by one of the gangs for the purpose of seizing the house, and in response, the family was met by the Advisor to the Prime Minister for Diversity and Pluralism Affairs, an elderly woman, and indicated that the house belongs to the Chaldean Church and is renting the house under the contract by linking) he concluded the letter with the phrase ((to take what is necessary and inform us)), the aforementioned letter acknowledged, in addition to his job, the defendant's agent of the authenticity of its content and its issuance by his client, but it does not relate to the plaintiffs' property, nor was it directed to the Directorate of Implementation of Karrada, and did not address the use of executive procedures for the evacuation of the plaintiffs' property based on the judgment decision issued in his regard executed in the Directorate of Execution of Karrada, on the basis of the foregoing, the aforementioned letter did not contain an order or directive to the Directorate of Execution of Karrada in order to delay the procedures for the eviction of the plaintiffs' property or to obstruct the implementation of the decision to vacate the said property, nor did it include interference in the affairs of the judiciary or justice, in addition to the above, the decisions issued by the executor of justice, and the decision issued as a result of the grievance shall be subject to appeal before the Court of Appeal in its discriminatory capacity, within which the Execution Directorate falls within the jurisdiction of its spatial work based on the provisions of the Execution Law No. (45) of 1980, as

Zainab

Republic of Iraq
Federal Supreme Court
Ref 304/ federal /2023



Kurdish text

amended, Which means the rights of the plaintiffs regarding the implementation of the eviction decision for their property issued by the competent court before the Directorate of Execution of Karrada appeals against executive procedures and decisions of the executor of justice are reserved by law and there is no legal impediment to exercising them in accordance with the provisions of the law, if the plaintiffs are affected by such decisions, the plaintiffs had to review the legally prescribed methods of appeal to challenge the decision of the executor of justice instead of reviewing this court and filing a lawsuit before it to shorten time, effort and expenses, and for the lack of jurisdiction of this court, in deciding on the requests contained in the lawsuit, the Federal Supreme Court decided to rule as follows:

First: Dismissing the plaintiffs' lawsuit (Hussein Muhammad Ali Jaafar and Jassim Muhammad Ali Jaafar) for lack of jurisdiction.

Second: Charging the plaintiffs with fees, expenses and agent fees for the defendant's agent, in addition to his position, legal advisor Qasim Suhaib Shakur, an amount of one hundred thousand dinars distributed in accordance with the law.

The decision has been issued unanimously, final and binding for all authorities in accordance with the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005, and Articles (4 and 5/2nd) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021. The decision has been made clear on 19/Rajab/1445 Hijri corresponding to 31/January/2024 AD.

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

Zainab